No. 79-1190

Supreme Court, U. S.
FILED
FEB 1 1980
MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

JANUARY TERM, 1980

LA SALLE NATIONAL BANK as Trustee under Trust No. 21113, et al.

Petitioners,

vs.

PEOPLES GAS LIGHT & COKE COMPANY,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS

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In the
Supreme Court of the United States

JANUARY TERM, 1980

NO.

LA SALLE NATIONAL BANK as Trustee under Trust No. 21113,

Petitioners,

VS.

PEOPLES GAS LIGHT & COKE COMPANY,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS

PETITIONERS, LaSalle National Bank as Trustee under Trust No. 21113, the Managing Agent Coates-Miller, Inc., Brian K. Flisk an officer of the managing agent, Randolph Mortgage Corporation the mortgagee, and William Henning Rubin the registered agent and attorney for mortgagor, respectfully pray that a writ of certiorari issue to review the judgment of the Illinois Supreme Court denying the Petition for Leave to Appeal pursuant to Rule 315(a) (b) of the Rules of the Supreme Court of Illinois.

ORDER BELOW

The Order of the Illinois Supreme Court denying Petition for Leave to Appeal to the Supreme Court of Illinois pursuant to Rule 315 (a) (b) of the Rules of the Supreme Court of Illinois is as follows:

"Petition for Leave to Appeal to the Supreme Court of Illinois denied, October 1st 1979, and motion for reconsideration denied November 13, 1979."

JURISDICTIONAL STATEMENT

The jurisdiction of this Court is invoked pursuant to 28 U.S.C. Section 1257, Subsections 2 and 3.

Petitioner seeks certiorari to issue to the Supreme Court of Illinois requiring it to vacate its order denying "The Petition for Leave to Appeal to the Supreme Court of Illinois pursuant to Rule 315 (a) (b) of the Rules of the Supreme Court" which denied the right to appeal from the order of the Appellate Court of Illinois First District.

QUESTION PRESENTED

Can a void judgment—entered fraudulently by the Clerk of a Court, when there is no minute book of the Judge to confirm that a trial was had—be permitted to stand, in view of the challenge of lack of due process?

STATUTORY PROVISIONS INVOLVED UNITED STATES CONSTITUTION

AMENDMENT IV:

> "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

AMENDMENT XIV:

> "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within the jurisdiction the equal protection of the laws."

THE QUESTIONS ARE SUBSTANTIAL

1. Can a mortgagee be held liable for the expenses of operation of a building?

2. Can a registered agent be held liable for the debts of a corporation?

3. Can a fraudulent void judgment that has never been entered by the judge and is not confirmed by the Judge's minute book reflecting that a trial was held and that witnesses testified, binding the defendants, remain in full force and effect?

4. Can a judgment falsely and fraudulently entered by the Clerk of the Court bind a defendant?

The record discloses the following manipulations of the Clerk in the courtroom with the file:

A. LaSalle National Bank as Trustee under Trust No. 21113 was dismissed as a party defendant by written order. The Clerk of the Court entered an order on the "half sheet" finding defendant LaSalle National Bank as trustee liable, when there was a court order exonerating the Bank;

B. The Honorable Michael Zlatnik had no Minute Book to confirm the names and addresses, if any, of witnesses that testified;

C. The plaintiff refused to produce the names of witnesses that testified that defendants were liable.

STATEMENT OF THE CASE

Respondent filed contract suit with a tort number against the LaSalle National Bank as Trustee under Trust Number 21113, the Managing Agent Coates-Miller, Inc., Brian K. Flisk an officer of the managing agent, Randolph Mortgage Corporation the mortgagee who was foreclosing a first mortgage and was mortgagee in possession pursuant to an assignment of rents, and William Henning Rubin the Registered Agent and attorney for the mortgagor, for a gas bill covering gas used to heat the premises.

None of these persons or corporations can be held liable since they were not customers of the Gas Company.

The beneficiary of LaSalle National Bank as Trustee, was incarcerated in the federal penitentiary, and obviously was unable to make his mortgage payments and this resulted in the mortgage foreclosure, nor did he pay the gas bill.

None of the Defendants were customers of the Gas Company, and were not beneficiaries of the Trust, nor was the Registered Agent.

A motion was made to strike and dismiss the Complaint on that basis. The matter could never be heard since each time the case came up the file was missing.

An order was entered as a result of manipulation by the Clerk of that Court, who falsely and fraudulently entered a judgment order against each of the defendants.

There is no record of a trial in the Judge's Minute Book. This bolsters the contention of Petitioners that a fraud was perpetrated.

The trial judge had no independent recollection of having heard the case, or any evidence in connection therewith.

Petitioner's contention is bolstered by the fact that Respondents filed a "contract action" with a tort number to conceal the fact that in the event the judgment was not paid that they may seek other sanctions.

The fact that no trial was held on the merits, and the clerk of the court fraudulently entered a judgment on what is known as the half sheet,[1] does not reflect that a trial was ever held in this cause.

That since the presiding judge of the Municipal Court, the Honorable Michael Zlatnik, has no minute book reflecting that a trial was ever had, and that witnesses testified concerning the liability of any of the defendants, we must assume that no trial was held.

That in addition thereto, the Complaint is verified by an *attorney for the corporation* whose knowledge is strictly hearsay since he had no personal knowledge of any of the transactions.

That since the judgment was entered ex parte, the Complaint cannot be accepted as "true" based on the affidavit of the attorney on behalf of the corporation, since no competent witnesses testified.

It is essential that certiorari be granted since it meets the requirements of the Supreme Court's Rule 19.

The Clerk of the Court caused a judgment to be entered against the mortgagee, an officer of the managing company, managing the property, and the registered agent of the

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[1] A half sheet is a piece of paper in the courtroom which has listed thereon the name of the case, the number of the case, the names of lawyers and individuals involved in the court action, to eliminate the necessity of having to write a court order every time a motion is made and a decision is made by the court. The courts have held that half sheets are not indicative of the court's ruling.

mortgage company, none of which were customers of the Gas Company.

That no state in the union has any law on its books that a mortgagee is liable for the debts of the mortgagor.

That William Henning Rubin is the registered agent of Randolph Mortgage Corporation and its attorney that was foreclosing the mortgage. He had no personal interest in the property which was being foreclosed.

A motion to strike and dismiss the Complaint filed in the trial court sets forth that the mortgagee had no interest in the property as well as the registered agent, and managing agent of the corporation. That neither the corporation nor the officer of the managing agent, nor the registered agent or attorney were customers of the Gas Company; and they had no obligation to the Gas Company for any sum whatsoever, was set forth in the Motion to Strike and Dismiss.

The judgment in this case seeks to extend the "line of liability" for persons or corporations who have never been held liable for the "use of property"[2] in a mortgage foreclosure.

It is essential that this Court grant certiorari in order that Petitioners who have no personal liability can obtain due process, and be released from a void judgment where they never had an opportunity to contest the proceedings since the file was always missing from the courtroom.

See *Fay* v. *Noia,* 372 U.S. 391, 9 L. Ed. 2d 837.

The fraudulent entry by the Clerk of the Order of Judgment is confirmed by the fact that LaSalle National Bank as Trustee, pursuant to a draft order was dismissed

[2] Memphis Light & Gas Company v. Willie W. Kraft, 98 S.Ct. 1554 (1978).

from the proceedings as a defendant, and the Clerk of the Court subsequently entered a judgment as though it had first been entered against the trustee. This further confirms the *fact that it was a deliberate attempt on the part of the Clerk of the Court to cause a fraudulent void judgment to be entered.*

The facts as set forth reflect that each time the Defendant appeared in court the file was always missing.

The trial court judge was requested to spread of record the names of the witnesses that testified and the nature of the testimony and Plaintiff refused.

The judge said he was *unable to do this since he had no minute book and had no record of a trial.* The entire procedure was a fraudulent entry of a judgment by the Clerk of the Courtroom.

The Illinois Appellate Courts have held that an order on a half sheet is not a valid order.

The fact that the judge had no independent recollection of the hearing, was evidence of the fradulent entry of a judgment by the Clerk of the Court.

ARGUMENT

POINT ONE

REASONS FOR GRANTING A WRIT OF CERTIORARI

The instant case meets the requirements for review by this Court so set forth in Supreme Court Rule 19, 1-2.

First, the ruling below is not in accord with any statute making a mortgagee or a registered agent, or a mortgagor or a registered agent or a corporation or a attorney liable for debts incurred during a period of a mortgage foreclosure.

Secondly, there is no court record of any witnesses testifying as to the liability of any of the defendants—namely a mortgagee or a registered agent or its attorney—where neither contracted for the use of gas in an apartment building in foreclosure.

Thirdly, the presiding judge at the trial has no record of having heard any evidence or testimony of any witnesses or even having entered a judgment except that the half sheet discloses the entry of a judgment.

Fourth, the plaintiff refused to produce a list of witnesses that testified (None testified).

The state courts have determined that the entry of a half sheet item in a court file is not evidence of the valid entry of a judgment.

It is the contention of the Petitioners that, in accordance with the decision of the United States Supreme Court in *Napue* v. *Illinois,* 360 U.S. 264, 3 L. Ed. 1217. This Court is required to reverse the decision of the Municipal

Court of Chicago Circuit Court, based on the fradulent entry of judgment against these petitioners without a trial.

This contention is also supported by: *Whitely* v. *Wyoming,* 401 U.S. 560, 28 L. Ed. 2d 306.

POINT TWO

A VOID JUDGMENT CAN ALWAYS BE ATTACKED: THERE IS NO STATUTE OF LIMITATIONS AND RESPONDENTS CANNOT USE A TECHNICALITY TO AVOID SETTING ASIDE A VOID JUDGMENT.

The Supreme Court of the United States in *Giglio* v. *U. S.,* 405 U.S. 160, 31 L. Ed. 2d 104, 92 S.Ct. 763, held:

> "A new trial is required if the false testimony could have in reasonable likelihood affected the judgment of the jury."

That situation is similar here, where the Complaint alleges a breach of contract, using a tort number.

In *Fay* v. *Noia,* 382 U.S. 391, 9 L. Ed. 2d 837, 83 S.Ct. 822, the Supreme Court held that where there is a denial of Due Process the individual is entitled to his immediate release.

There is no question in the case at bar, that the examination of the record reflects the entry of a false order finding the Defendants guilty when there is no record in any judge's minute book to confirm the testimony that the defendants-petitioners were guilty.

That in such instance, the Court is required of its own motion to decide whether or not a fraud had been perpetrated on the court, and not to accept as a subsequent judge did of a communication purportedly sent to the at-

torneys of the petitioners, that a judgment had been entered, when in fact no such communication was ever proven.

The Rules of Procedure, the Civil Practice Act, and the Rules of the Supreme Court specifically provide that when a judge is not sitting, any other judge sitting in his "place of stead" has a right to rule on a motion or petition submitted in that courtroom. It is a well known fact that the Chief Justice of the Municipal Court, several years ago, sent a communication to all of the judges that any decision rendered is not a decision of the judge but is a decision of the courtroom so that a subsequent judge sitting in his place and stead has jurisdiction to rule on a motion or petition presented in any given case.

POINT THREE

THE RULING BELOW CONFLICTS WITH THE APPLICABLE DECISIONS OF THIS COURT HOLDING THAT LIABILITY IMPOSED WITHOUT HEARING IS VOID AND UNCONSTITUTIONAL.

The case of *Harold Whitely, Petitioner* v. *Warden of Wyoming State Penetentiary,* 401 U.S. 560, 28 L. Ed. 2d 306, is in point.

The decision of this Court in the *Whitely* case which sets forth that the judicial officer issuing a search warrant be supplied with sufficient information to support an independent judgment that probable cause exists for the warrant, is the same principal upon which a void judgment cannot be entertained.

The *Whitely* case cites the following cases: *Spinelli* v. *United States,* 393 U.S. 410, 21 L. Ed. 2d 637, 78 S.Ct. 584 (1969); *United States* v. *Ventresca,* 380 U.S. 102, 13

L. Ed. 2d 684, 85 S.Ct. 741 (1965); *Aguilar* v. *Texas,* 378 U.S. 100, 12 L. Ed. 2d 723, 84 S.Ct. 1509 (1964).

POINT FOUR

PETITIONER'S FAILURE TO APPEAL WAS NOT A FAILURE TO EXHAUST THE REMEDIES AVAILABLE IN THE COURTS OF THE STATE, WHICH WOULD PRECLUDE FEDERAL HABEAS CORPUS RELIEF UNDER 28 U.S.C. 254.

The Petitioners in this cause exhausted all of their state remedies by filing a petition for leave to appeal to the Supreme Court of Illinois.

The case of: *Fay* v. *Noia,* 372 U.S. 391, 9 L Ed 2d 837. further supports Petitioners and stands for the proposition that:

> "The Petitioner's failure to appeal was not a failure to exhaust 'the remedies available in the courts of the State'."

Just as it has been held not to be a waiver to file a federal petition for a writ of habeas corpus so it is not a defense that defendants have not exhausted their remedies in the state court.

Rugendorf v. *United States,* 376 US 528, 11 L Ed 2d 887, 84 S Ct 825. (1964):
Jones v. *United States,* 362 US 257, 4 L Ed 2d 697, 80 S Ct 725, 78 ALR 2d 233 (1960);

Giordenello v. *United States,* 357 US 480, 1 L Ed 2d 1503, 89 S Ct 1245 (1958).

In order for the judgment of a court of law to have any binding effect, there must be some type of testimony and documents to support the court's judgment.

The Complaint filed in this case could not support a finding against the mortgagee, the managing agent, or the registered agent of the corporation, therefore the judgment order against the defendants violates the constitutional rights of the defendants under the Fourth and Fourteenth Amendments to the Constitution.

In the case of *Mapp* v. *Ohio*, 367 US 643, 6 L Ed 2d 1081, the Court held that the evidence should be excluded. In the instant case *there was no evidence adduced,* and so the entry of a judgment order is void.

POINT FIVE

THE SUPREME COURT OF THE UNITED STATES IS REQUIRED TO EXERCISE SUPERVISORY AUTHORITY TO ENSURE DUE PROCESS.

The State courts should not be permitted to defeat due process and justice on the basis of a technicality such as was permitted in the case at bar when the file was never available and each time that the case was called, and when the file was discovered it was found that the Clerk of the Court had fraudulently and without judicial authority entered a void judgment since no hearing was had, no evidence was produced that was confirmed by the minute book of a judge. The only thing available was an entry in the docket book of a judgment with no supporting evidence that such entry was duly authorized by a court of competent jurisdiction. Such injustices must be eliminated by the Supreme Court of the United States. This is confirmed by the decision of the Supreme Court in: *Fay* v. *Noia, ibid.*

CONCLUSION

The case presents a critical issue on the technicalities which are being used in the state courts to sustain void judgment and it is encumbent upon this Court to clarify the jurisdiction of both the state courts and the federal courts, not to defeat justice on a technicality.

For the foregoing reasons, Petitioners pray that this Court issue a writ of certiorari to the Supreme Court of Illinois for the purpose of reviewing and reversing the decision of that court in denying the petition for leave to appeal the order of the Circuit Court of Cook County Municipal Division denying vacation of the judgment against the defendants in the aforementioned case.

Respectfully submitted,

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APPENDIX

PETITION FOR LEAVE TO APPEAL
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APPENDIX

TO THE SUPREME COURT OF ILLINOIS

APPEAL FROM THE:

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

PEOPLES GAS LIGHT & COKE COMPANY
Plaintiff-Appellee

VS

LA SALLE NATIONAL BANK as Trustee under Trust No. 21113, et al,
Defendants-Appellants

Appellate Number 79-857

PETITION FOR LEAVE TO APPEAL TO THE SUPREME COURT OF ILLINOIS PURSUANT TO RULE 315 (a) (b) OF THE

RULES OF THE SUPREME COURT OF ILLINOIS

TO THE HONORABLE JUDGES OF THE SUPREME COURT OF ILLINOIS:

PETITIONER, WILLIAM HENNING RUBIN, attorney for LA SALLE NATIONAL BANK as Trustee under Trust No. 21113 et al, files this Petition for Leave to Appeal, pursuant to Rule 315 (a) (b) of the Rules of the Supreme Court of Illinois.

1. Petitoners pray that the action of the trial court finding the defendants personally liable for payment of the gas bill be reversed and that the action of the Appellate Court of Illinois First District in dismissing the appeal be reversed.

2. That the decision of the trial court is a forgery and unsupported by any minute book of the judge reflecting that witnesses testified that the defendants were personally liable, and that the court pursuant to said testimony found the defendants were liable to the plaintiff.

3. That the devision of the Appellate Court First District is completely erroneous since the complaint is unverified, the defendants had no knowledge of the entry of the void order, since there never was a hearing, and no witnesses testified.

4. *That this case demands the utmost attention of this Court for,* if the dismissal is allowed to stand in this instance, *the following results will occur to established law in the State of Illinois*:

5. In the opinion of Petitioner, the following results will occur:

a) It will mean that a mortgagee can be held liable for the expenses of operation of a building;

b) It will mean that a registered agent is liable for the debts of a corporation;

c) It will mean that a void judgment which was never entered by the Judge and is not confirmed by the Judge's minute book, is in full force and effect;

d) It will mean that because the Clerk of the Court falsely entered an order finding these defendants liable including employees of a real estate management company, it is a valid order.

6. The record discloses the following manipulations of the Clerk in the courtroom:

A. LaSalle National Bank as Trustee under Trust Number 21113 was dismissed as a party defendant by written order. The Clerk of the Court entered an order on the 'Halfsheet'' finding Defendant

LaSalle National Bank as trustee liable, when there was a court order exhonerating the Bank.

B. The Honorable Michael Zlatnik had no Minute Book to confirm the names and addresses, if any, of witnesses that testified;

C. The plaintiff refused to produce the names of witnesses that testified that defendants were liable.

7. Under the law of the State of Illinois, there is no case confirming that a mortgagee can be held liable for the debts of a mortgagor.

8. The case law requires that an agent, whose agency has been disclosed, is exempt from any personal liability.

9. There is no case law in the State of Illinois that makes a registered agent liable.

10. The *manipulations* of the plaintiff *are disclosed* and apparent by the fact that *the suit is a tort, when it is a contract case.*

11. The record discloses that the mortgagee had filed a mortgage foreclosure to divest the interest of the LaSalle National Bank.

12. That since the Complaint is completely invalid, there can be no proof adduced by defendants since no one testified;

13. That the record further discloses that each and *every time that the case came up the file was missing;* and the *manipulations of the Clerk of the Court on the half sheet* are not conclusive in view of the contrary affidavits of the defendants.

14. That this Court is called upon to lay down rules and regulations as to the obligations of a judge in a courtroom; that it is his duty to supervise the entry of the orders

on the half sheet and on the docket, and the judge cannot exhonerate himself from liability by passing this responsibility to the Clerk.

15. *That it is established law that a void judgment can always be set aside.* For example, see: *Jordan* v. *Gilligan,* 500 F 2d 701.

16. That the Supreme Court of Illinois has rendered many similar decisions, that a void judgment can always be attacked.

17. That the Illinois cases supporting the proposition that *a void decree may be attacked at any time by any party that is affected thereby* are:

Safeway, Inc. v. *Harvey,* 36 Ill. App. 3d 388, 392;
Regals v. *Reagan,* 22 Ill. App. 3d, 211;
James v. *Fratz,* 21 Ill. 2d 377;
Chapman Mazza v. *Ace Link,* 83 Ill. App. 3d, 320.
Barnard v. *Michael,* 392 Ill. 130;
Krieger v. *Krieger,* 221 Ill. 479, 484.

The Court said, in the *Safeway* v. *Harvey,* (1976) case, *ibid*:

> "It is established law that a void decree may be attacked at any time by the parties themselves or by any person who is affected thereby."

In *Reagan* v. *Reagan,* (1971), *ibid,* the opinion states:

> "That the two year period provided in Sec. 72 for bringing an action is not applicable where relief is sought from a void decree." *Miller* v. *Bloomberg,* 60 Ill. App. 3d 362, 365. Chapman Mazza (1967), *ibid;*

That the *Miller* v. *Bloomburg* case stands for the proposition that:

> "A trial court on its own motion may set aside any judgment or order during the pendancy of the term or its equivalent."

Defendants-Appellants contend that when the Honorable Michael Zlatnik saw that he had no "Minute Book" containing the names and addresses of the witnesses that testified that the mortgagee Randolph Mortgage Corporation and William Henning Rubin registered agent, and the mortgage corporation were liable; and that even if witnesses were to testify that the mortgagee and registered agent were liable, it would be false and untrue and contrary to the established law, he should have vacated the judgment since it was void *ab initio.*

That it has always been the law that a void judgment cannot be made valid because someone falsely testified when there is no legal obligation to bind the party.

That the practice of law is not a guessing game; but it is precise; and until the judges learn to be precise in their rulings and that the rulings are founded on well established facts and honest testimony, we cannot have a true and accurate result.

The Court stated in the case of *Barnard* v. *Michael,* (1945) ibid:

> "A judgment or order or decree entered by a court which lacks jurisdiction . . . is void, and may be attacked at any time or in any court, either directly or collaterally. An application to vacate a judgment or decree, made to the court that rendered it within thirty days after its entry, is a direct attack upon the judgment or decree, but if made after the expiration of thirty days, it is a collateral attack." In *Maher* v. *Title Guarantee & Trust Co.* (1901) 95 Ill. App. 365, 387, it was stated: ". . . while courts of equity have the power to vacate a fraudulent divorce, though in so doing the rights of innocent third parties will be sacrificed, they will proceed with great caution, especially where there has been a second marriage on the faith of the fradulent decree . . ."

That a motion was made in the Appellate Court that an evidentiary hearing be held to determine the validity of the entry of the order by the Clerk so that there would be no question as to whether or not the order of judgment was a forgery, or was an honest entry.

That motion for the evidentiary hearing was denied by the Appellate Court, and justice requires that that order be reversed.

THERE IS NEED FOR THE EXERCISE OF THE SUPREME COURT'S SUPERVISORY AUTHORITY IN THIS CASE.

The Appellate Court dismissed the appeal without writing any opinion, with the result, as hereinabove stated, that the mortgagee in future cases can be held liable for the debts of the mortgagor, a registered agent of a corporation can be held liable for the debts of the corporation, an agent who has disclosed his agency can be held liable for the debts of the principal for whom he has managed property.

Under these circumstances, this Court is required in the interests of justice, to review the acts of the trial court, as well as the Appellate Court, which is acting under a technicality, that an appeal was not filed within the period provided in the Practice Act, or in the Rules of the Supreme Court.

The obligation to file a notice of appeal does not run until the parties litigant become conscious of an illegal act that has been committed either by the litigants or by the Clerk of the Court.

Certainly any litigant cannot take advantage of this type of defense or justice fails to exist in the United States of America.

There is no question that the Court's jurisdiction can be invoked by a Section 72 petition or when the party litigant ascertains that "fraud" has been exercised.

There is no question that the letter that the plaintiff appellee claims was sent, notifying the defendants of the entry of the judgment, is a fraud.

This Court cannot condone the entry of a judgment which purports to represent that a trial was held, when there actually was no trial.

That it is quite apparent that if a trial was held the plaintiff would have no hesitancy in disclosing the names and addresses of the witnesses that testified.

That to compound the injustice and injury that occurred to the Defendants-Appellants is the fact that no witness could have testified that the mortgagee is liable, nor could the witness testify that the registered agent was liable, nor could any witness testify that "an agent who discloses his agency" is liable.

To permit the decision of the Appellate Court to stand dismissing the appeal, under the circumstances when there was no disclosure that a judgment was entered until after the 30-day period had expired, *is the grossest mis-carriage of justice, which cannot be condoned by this Court.*

It is respectfully submitted that, in the interests of justice the appeal be reinstated, and this Court in the alternative remand the case to the Appellate Court for determination on the merits; or in the alternative, that this Court take jurisdiction and hold a complete hearing of the matters involved.

Respectfully submitted,

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79-1190

No.

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FILED
FEB 1 1980
MICHAEL RODAK, JR., CLERK

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PEOPLES GAS LIGHT & COKE COMPANY,

Respondent.

SUPPLEMENTAL APPENDIX TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS

WILLIAM HENNING RUBIN
188 W. Randolph — 714
Chicago, Illinois 60602
(312) 263-6780
Attorney for Petitioners

LAW OFFICES OF:
WILLIAM HENNING RUBIN
188 W. Randolph — 714
Chicago, Illinois 60602
263-6780
Of Counsel

UNITED STATES LAW PRINTING CO., CHICAGO, ILLINOIS 60618 (312) 525-6581

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In the
Supreme Court of the United States

JANUARY TERM, 1980

No.

LA SALLE NATIONAL BANK as Trustee under Trust No. 21113,

Petitioners,

vs.

PEOPLES GAS LIGHT & COKE COMPANY,

Respondent.

SUPPLEMENTAL APPENDIX TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS

Complaint Verified.

In the Circuit Court of Cook County, Illinois
Municipal Department, First District

PEOPLES GAS LIGHT & COKE CO., a public utility corp.

plaintiff

v.

LA SALLE NATIONAL BANK OF CHICAGO, as Trustee u/t 21113, RANDOLPH MORTGAGE CORPORATION, WILLIAM H. RUBIN, BRIAN FLISK, BARRY FLISK, B. COLEMAN CORP., a corp.

defendant

No. 78M1-16346
Amount claimed $9280.94
Return date April 27, 1978

COMPLAINT

COUNT I

The plaintiff claims as follows:

1. That at all times mentioned herein, Peoples Gas Light & Co. was a public utility corporation operating and selling natural gas in the City of Chicago, Illinois.

2. That at all times mentioned herein the defendant, LaSalle National Bank of Chicago as trustee under Trust #21113, was the owner of the property commonly known as 219 North Central Avenue, Chicago, Illinois pursuant to a deed in trust dated January 28, 1958, and recorded in the office of the Recorder of Deeds as document #17127352 on February 5, 1958.

3. That on January 15, 1958, the defendant, LaSalle National Bank as trustee executed a certain mortgage and note to Bell Federal Savings & Loan Association and that same was recorded as document #17127352.

4. That upon a date unknown to the plaintiff, but prior to January 1, 1977, the defendant, Randolph Mortgage Corporation, did receive an assignment of the trust deed and note from Bell Federal Savings & Loan Association of all the right, title and interest of Bell Federal in and to said note and mortgage on the property known as 219 North Central, Chicago, Illinois.

5. That at all times mentioned herein, the defendant, William H. Rubin, was the registered agent for Randolph Mortgage Corporation and upon information and belief maintained an ownership interest in and to said corporation and its assets.

6. That further, on December 1, 1976, the Secretary of State of Illinois did involuntarily dissolve Randolph Mortgage Corporation and did notify William H. Rubin as registered agent of said action.

7. That some time prior to January, 1977, the defendant, LaSalle National Bank, as trustee, and the beneficiaries of said trust did default in the payments of the mortgage to Randolph. That as a result of said default and through some means unknown to the plaintiff, the defendant, Randolph, acting through the defendant, Rubin, did gain possession and control over the premises at 219 North Central Avenue.

8. That the defendant, William H. Rubin, did turn said building over to the defendants, Brian Flisk and Barry Flisk for the purpose of collecting the rents from the property and to manage said property. That Brian Flisk did upon information and belief use the defendant, B. Coleman Corp., a corporation, being owned by Brian Flisk and Barry Flisk, to manage said property in name only.

9. That on Jan. 21, 1977, the defendant, Rubin, did cause to be filed a certain mortgage foreclosure, 77 CH 4214, in

the Circuit Court of Cook County, Illinois. That said cause of action was subsequently dismissed for want of prosecution by Judge Heckinger.

10. That upon information and belief the defendants, William Rubin, Randolph Mortgage Corp., Brian Flisk, Barry Flisk and B. Coleman Corp. at no time ever obtained any lawful order of Court or deed in lieu of foreclosure from any party in title or having an interest in the LaSalle Trust #21113, granting possession of said property to the defendants.

11. That irrespective of their right of possession and control of the subject property, the defendants aforesaid did collect rents and maintain control over 219 North Central, Chicago, Illinois, subsequent to January, 1977, and that upon information and belief continue to do so on this date.

12. That the defendants, William H. Rubin, Brian Flisk, Barry Flisk and B. Coleman Corp., did commit one or more of the following acts with the specific intent of defrauding the plaintiff herein out of the value of natural gas being supplied to 219 North Central, Chicago, Illinois:

a. upon taking possession and control of the premises the defendants and each of them did intentionally fail to contact the plaintiff for the purpose of establishing natural gas service to their names individually or as agent for the proper named owner of the premises.

b. Continued from January 5, 1977 through and including March 11, 1978, and continuing intentionally and with the specific intent of defrauding the plaintiff allowed natural gas service to be supplied to the premises at 219 North Central, Chicago, Illinois, intending not to pay the plaintiff the value for said services supplied.

c. Did allow the plaintiff to supply natural gas to the aforesaid property with the specific intent of de-

frauding the plaintiff by claiming that they never contracted for the gas service from the plaintiff in their names, knowing at all times that the named recepient of gas service no longer held any interest in the property and was in fact in a federal penal institution from a date prior to the defendants taking possession of the premises.

d. Did with the specific intent of defrauding the plaintiff fail and refuse the plaintiff access to the premises to terminate natural gas thereby preventing further unauthorized use of the gas.

13. That as a direct result of the aforesaid intentional acts by the named defendants, the plaintiff has supplied gas service through March 11, 1978, having a value of $9280.94, to 219 North Central, Chicago, Illinois, and that the plaintiff has at all times been in the exercise of due care and in accordance with pertinent Illinois Commerce Commission Regulations.

14. That plaintiff is entitled to the sum of $9,280.94, for the unlawful conversion of gas by the named defendants.

WHEREFORE, plaintiff prays for judgment against William H. Rubin, Brian Flisk, Barry Flisk and B. Coleman Corp., in the sum of $9,280.94, and costs.

COUNT II

Plaintiff realleges paragraphs 1 through 12 of Count I as paragraphs 1 through 12 of Count and further states:

13. That the defendants, William H. Rubin, Brian Flisk, Barry Flisk and B. Coleman Corp., committed one or more of the aforesaid acts in a wilful and wanton manner and with a conscious indifference to the rights of the plaintiff and that malice is the gist of the action.

14. That as a result of the wilful and wanton acts of the named defendants, the plaintiff has been damaged in the sum of $9280.94.

15. That the plaintiff is entitled to punitive damages in the sum of $5,000.00 for the acts of the defendants.

WHEREFORE, plaintiff prays for a judgment with a finding that malice is the gist of the action against William H. Rubin, Brian Flisk, Barry Flisk and B. Coleman Corp., in the sum of $9280.94, compensatory damages and $5,000.00 punitive damages.

COUNT III

Plaintiff realleges paragraphs 1 through 12 of Count I as paragraphs 1 through 12 of Count III, and further states:

13. That the defendants and each of them have benefited unjustly as a result of the unlawful conversion of natural gas and continued gas service to 219 North Central, Chicago, Illinois, at the expense of the plaintiff.

14. That the defendants by their acts are liable to the plaintiff in the sum of $9280.94 in quasi-control for using the plaintiff's natural gas in the aforesaid premises.

WHEREFORE, plaintiff prays for a judgment against the defendants in the sum of $9,280.94, plus costs.

PEOPLES GAS LIGHT & COKE CO.,
a public utility corp.

By .....

I, Norman Wexler, on oath state that I am the agent for plaintiff in the above entitled action. The allegations in this complaint are true.
Signed and sworn to before me _____
March 27 1978

_____

Notary Public

Wexler, Wexler and Heller, Ltd.
Attorney for Plaintiff
134 North LaSalle Street
Chicago, Illinois 60602
Central 6-3644

IN THE CIRCUIT COURT OF COOK
COUNTY ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

PEOPLES GAS LIGHT & COKE COMPANY, a Public Utility corporation,

Plaintiff,

—vs—

LA SALLE NATIONAL BANK OF CHICAGO, as Trustee, U/T No. 21113, et al,

Defendants

78M1—16346

MOTION TO STRIKE AND DISMISS,
PURSUANT TO SECTION 45
OF THE CIVIL PRACTICE ACT

NOW COMES RANDOLPH MORTGAGE CORPORATION, an Illinois corporation, one of the Defendants, by WILLIAM HENNING RUBIN, its attorney, WILLIAM HENNING RUBIN its Registered Agent, and WILLIAM HENNING RUBIN, pro se, and, pursuant to Section 45 of the Civil Practice Act, moves to strike and dismiss the Complaint.

That in support of this Motion, Randolph Mortgage Corporation and William Henning Rubin say as follows:

1. That the Complaint was filed as a tort action which is an abuse of legal process on the part of the attorneys for plaintiff since there are no tortious acts alleged nor could defendants possibly be liable for any tortious acts.

2. That in further support of this Motion Defendant Randolph Mortgage Corporation and William Henning Rubin say as follows:

3. That the Complaint on its face alleges that Randolph Mortgage is the mortgagee and that LaSalle National Bank is the trustee under Trust No. 21113 and that it is the owner of the real estate.

4. That the Complaint further alleges that William Henning Rubin is the registered agent but there are no well pleaded allegations to enable Defendant to plead to the Complaint when the law is quite clear that a registered agent has no liability whatsoever.

5. That the duty of the registered agent is only to receive service of processes for and on behalf of the corporation without any personal liability to the registered agent.

6. That there are no well pleaded allegations as to how the attorney for the mortgagee could possibly become personally liable to the plaintiff for gas consumed on the premises.

7. That the Complaint alleges that the mortgagee, Randolph Mortgage Corporation and the attorney turned the property over to Brian Flisk and Barry Flisk to collect rent but there are no well pleaded allegations that would make either Randolph Mortgage Corporation or William Henning Rubin the Attorney, liable to Plaintiff.

8. That the Complaint on its face states that William Henning Rubin was the attorney for Randolph Mortgage Corporation, and was also registered agent and therefore liable to Plaintiff for gas, which is a conclusory statement contrary to any case law, that would obligate the attorney or the registered agent. That Plaintiff attempts to cure this deficiency by adding that Defendant Rubin may have an interest in the property. That is all a matter of conjecture and should be stricken.

9. That Plaintiff, having named several individuals as defendants, then in a "catch-all phrase" asks for judgment

9. That the statements made in paragraph 3 of Count 2 are conclusory.

10. That allegations of demands are averred to have been made on the Defendants since there were alleged to be three defendants, and the Complaint fails to allege the date, and the place, of demands and the persons upon whom the demands were made.

11. That the averment contained in paragraph 4 of Count 2 that there is an account stated between the parties, is a conclusion, since there are no proper allegations that would enable this Court to determine without additional allegations and documentary proof that Coates-Miller, Inc. at any time agreed to act as either principal or agent for the premises.

WHEREFORE, Defendant Coates-Miller, Inc. moves that the Complaint be stricken and the cause dismissed at Plaintiff's cost.

That the Plaintiff go hence without day; and

DEFENDANT FURTHER MOVES That he may have such further relief as the court may deem proper.

COATES-MILLER, INC., et al,
Plaintiffs,

By .....
William Henning Rubin
Its attorney

Law Offices of:
WILLIAM HENNING RUBIN
188 W. Randolph — 714
Chicago, Illinois 60601
263-6780

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

PEOPLES GAS LIGHT & COKE COMPANY,
Plaintiff,

-vs-

LASALLE NATIONAL BANK OF CHICAGO as Trustee u/t 21113, RANDOLPH MORTGAGE CORPORATION, et al.,
Defendants.

NO. 78M1-16346

MOTION TO DISMISS

Defendant, LASALLE NATIONAL BANK, as Trustee under Trust No. 21113 (TRUSTEE), by its attorneys, LIEBLING, HAUSELMAN & MILLER, LTD., as and for its Motion to Dismiss, states as follows:

1. That the LaSalle National Bank is Trustee under Trust No. 21113 and merely holds title to the premises in question as a naked land trustee and has no further interest in the trust property.

2. That the Trustee does not manage, operate or in any other way control the premises which constitute the trust *res* in any manner whatsoever.

3. That the name and last known address of the beneficiary of said trust is as follows:

Lonnie B. Branch, Jr.
9216 S. Union Avenue
Chicago, Illinois 60620

WHEREFORE, LaSalle National Bank, as Trustee under Trust No. 21113, respectfully requests the Court to enter an Order dismissing it and for any and all further relief.

LIEBLING, HAUSELMAN &
MILLER, LTD.

By: .....
A member of the firm

LIEBLING, HAUSELMAN & MILLER, LTD.
Attorneys for LaSalle National Bank
39 South LaSalle Street
Chicago, Illinois 60603
372-2020

IN THE CIRCUIT COURT OF COOK COUNTY,
ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

PEOPLES GAS LIGHT & COKE CO.,
Plaintiff,

v.

LA SALLE NATIONAL BANK, et al.,
Defendants

No. 78 M1 16346

MOTION

Now come defendants RANDOLPH MORTGAGE CORPORATION, WILLIAM HENNING RUBIN, WILLIAM H. RUBIN and BRIAN FLISK and move to vacate the judgment entered December 18, 1978.

That in support thereof defendants state as follows:

1. That leave was given on September 6, 1978 to file a petition to vacate the judgment entered ex parte and staying the execution until December 12, 1978.

2. That on December 18, 1978, without any prior notice, plaintiff obtained a judgment against the defendants.

3. That the judgment is void on its face and can be set aside in accordance with the decisions of the Appellate Court and Illinois Supreme Court.

4. That a void judgment can be set aside at any time and the Court retains jurisdiction for that purpose.

5. That RANDOLPH MORTGAGE CORPORATION is an Illinois corporation and has foreclosed the mortgage

secured by the real estate located at 219 N. Central, Chicago, IL.

6. That WILLIAM H. RUBIN is the registered agent.

7. That the only liability for the payment of the gas bill would be the beneficiaries that contracted for the gas, which is LONNIE BRANCH, who is now located in the U. S. penitentiary.

8. That counsel for plaintiff abused his legal discretion in filing a tort action against the defendants when there is no tort liability.

9. That counsel for plaintiff must explain to this Court how this Court entered an order on December 18, 1978 when the case had been set for hearing on December 12, 1978.

WHEREFORE, defendants move that the judgment entered heretofore be vacated and this case be set for hearing on a date certain.

.....
WILLIAM HENNING RUBIN
Attorney for Defendants

WILLIAM HENNING RUBIN
188 W. Randolph St.
Chicago, IL 60601
263-6780

BE IT REMEMBERED, that afterwards, to-wit: on the 3rd day of APRIL, A.D. 1979, the following among other proceedings were had and entered of record in said Court which proceedings were and are in words and figures following to-wit:

PRESENT HONORABLE CHARLES P. HORAN
One of the Judges of the Court

BERNARD CAREY, State's Attorney
RICHARD J. ELROD, Sheriff
MORGAN M. FINLEY, Clerk

PEOPLES GAS LIGHT & COKE CO., a public utility corp.

vs.

LA SALLE NATIONAL BANK OF CHICAGO, as Trustee u/t 21113, RANDOLPH MORTGAGE CORPORATION, WILLIAM H. RUBIN, BRIAN FLISK, BARRY FLISK, B. COLEMAN CORP., a corp.,

---

No. 78M1-16346

TORT

Transfer to Room 1401 for Judge Zlatnik.

IN THE CIRCUIT COURT OF COOK
COUNTY ILLINOIS
MUNICIPAL DEPARTMENT, FIRST DISTRICT

PEOPLES GAS LIGHT & COKE COMPANY, a public utility corporation,

Plaintiff

vs

LA SALLE NATIONAL BANK OF CHICAGO, as Trustee U/T/No. 21113, et al,

Defendants

NO. 78 M1 16346

MOTION TO VACATE VOID ORDER

NOW COMES DEFENDANTS, RANDOLPH MORTGAGE CORPORATION and WILLIAM HENNING RUBIN and BRIAN FLISK and BARRY FLISK, and move to vacate the void order entered on the 8th day of November, 1978.

That in support of this Motion to vacate the void court order entered on the 8th day of November, 1978, Defendants say as follows:

1. That there are no minutes of the trial judge Michael Zlatnik that reflect that a hearing was held and that a witness or witnesses testified for plaintiff;

2. That Defendant Randolph Mortgage Corporation, an Illinois corporation, Brian Flisk, Barry Flisk and William Henning Rubin were liable to plaintiff for the use of any gas to the premises. That no witness could have testified unless he was guilty of perjury since none of the defendants herein could possibly be legally liable for the payment of the gas bill.

3. That there is no law on the statute books of the State of Illinois that makes a mortgagee such as the Randolph Mortgage corporation liable for the payment of any bills for the operation of the building.

4. There is no statute in the State of Illinois that makes the registered agent liable for the payment of any gas bills.

5. That the plaintiff's counsel inserted a statement in the Complaint that the registered agent had an interest in the real estate, which is false and untrue.

6. That the records of the trustee, LaSalle National Bank under Trust No. 21113, does not disclose any interest other than the beneficiary of the trust, who is incarcerated in the United States Penetentiary.

7. That Brian Flisk and Barry Flisk are not managing the property and have no interest in Randolph Mortgage Corporation.

8. That the Complaint here was filed deliberately as a tort action to try to convince the court that a "tort action" had been committed by these defendants, which is false and untrue.

9. That Plaintiffs did not verify the Complaint.

10. That plaintiffs could not verify the complaint since all the statements were false and untrue.

11. That on the date that the case was supposed to have been heard there was no file in the courtroom.

12. That this proceedings is being brought before the trial judge for the purpose of having him state in the record exactly what his minutes show as to the name of the person or persons who testified, their addresses and the testimony that they gave.

13. That the statement that Counsel for Plaintiff makes that he notified us of the entry of the judgment is false and

without merit and should be disregarded by the court for it is offered as a defense for the continuation of the void order and judgment.

14. That the rights of the parties have never been adjudicated by this court.

15. That the entry on the half sheet is not evidence that a trial was held. The plaintiff is required to prove his case and there is no way that anyone could have testified that any of these defendants were liable personally for the debt that plaintiff claimed was owing to it.

16. It has always been the law in this state that a trial court will reverse a decision if it abused its discretion.

17. That under the Rules of the Civil Procedure as provided by the Rules of the Supreme Court of Illinois Defendants have a right to appear before the trial court to clarify the record since there is no presumption that a trial took place or that evidence was heard without the court reporter's transcript or the minutes of the judge that presided at the trial.

WHEREFORE, DEFENDANTS MOVE That an order be entered vacating the void order that Randolph Mortgage Corporation, mortgagee, that William Henning Rubin, Attorney for Randolph Mortgage Corporation, that Brian Flisk, and Barry Flisk are liable to the plaintiff for any sum whatsoever.

That this Court further order the plaintiff to produce the transcript of a court reporter that took the testimony covering the names and addresses of any witnesses that testified at the trial, and whose testimony was recorded by the court reporter in accordance with the Rules of the Supreme Court of Illinois which require either litigant Plaintiff or Defendant to transcript if one is in existence.

DEFENDANTS FURTHER MOVE That they may have such further relief as the court may deem proper.

LA SALLE NATIONAL BANK OF
CHICAGO As Trustee Under Trust
No. 21113, et al, Defendants

By /s/ *William Henning Rubin*
William Henning Rubin
Their attorney

WILLIAM HENNING RUBIN
188 W. Randolph — 714
Chicago, Illinois 60602
263-6780

TO THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

NUMBER ———

PEOPLES GAS LIGHT & COKE COMPANY, a public utility corporation,

Plaintiff-Appellee

vs.

LA SALLE NATIONAL BANK OF CHICAGO, as Trustee Under Trust No. 21113, et al,

Defendants-Appellants

On Appeal from the Circuit Court of Cook County, Illinois Municipal Dept. — Number 78 M1 16346

HON Michael Zlatnik Judge Presiding

NOTICE OF APPEAL

TO:

Wexler & Wexler
134 North LaSalle Street
Chicago, Illinois

NOTICE IS HEREBY GIVEN That RANDOLPH MORTGAGE CORPORATION, an Illinois Corporation, WILLIAM HENNING RUBIN, Registered Agent, BARRY FLISK, BRIAN FLISK, and B. COLEMAN CORPORATION, an Illinois Corporation, Defendants-Appellants, hereby appeal to the Appellate Court of Illinois First District from:

The ex parte order entered August 17, 1978; from the order entered on March 23, 1979; and from the order entered on the 25th of April, 1979 pursuant to the Motion unless he was guilty of perjury since none of the defen-

made on April 3, 1979 to vacate the order of March 23, 1979 and the order entered denying defendants' motion to vacate all of said orders.

DEFENDANTS FURTHER APPEAL from the Order entered April 25, 1979 refusing to enter an order on the motion to vacate the void order entered on August 17, 1978 and the order entered on March 23, 1979, pursuant to motion of April 13, 1978.

DEFENDANTS PRAY that said order be reversed and this cause set for trial on the merits.

DEFENDANTS FURTHER PRAY That all of the findings made ex parte without a trial on the 17th of Aug, 1978 be vacated.

PLAINTIFFS FURTHER PRAY that they may have such further relief as the Court deems proper.

RANDOLPH MORTGAGE CORPORATION,
WILLIAM HENNING RUBIN
BRIAN FLISK, BARRY FLISK, and
B. COLEMAN CORPORATION,
Defendants-Appellants

By *William A. Rubin*
William Henning Rubin
Their attorney and attorney pro se

WILLIAM HENNING RUBIN
188 W. Randolph—714
Chicago, Illinois 60602
263-6780

PROOF OF SERVICE.

William Henning Rubin, hereby certifies that he served a copy of the aforegoing Notice of Appeal on Counsel for Plaintiff, this 2th day of April, 1979, by Personal Service.

/s/ *William Henning Rubin*
WILLIAM HENNING RUBIN,
Attorney for Certain Defendants

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS-MUNICIPAL DEPARTMENT FIRST DISTRICT

PLAINTIFF VS. DEFENDANT

PLAINTIFF'S ATT.

ADDITIONAL NAMES

RETURN DAY: 04 | 27 | 78 — NUMBER: 77 | M | 16346

CLERK'S $ 9,280.94

PLAINTIFF FEES DEFENDANT

5.00 27.00 22.00 16,346

CERTAIN FILED. SUMMONS ISSUED. RETURNABLE AT ROOM NUMBER 602

ANSWER FILED 05 | 29 | 78

APR 27 1978 SUM. FLD. RET. SERV. 4/15/78

Appearance filed

APR 27 1978

APR 27 1978 Appearance filed.

APR 27 1978 SUM. FLD. RET. NOT FOUND

JUN 5 1978 SUM. FLD. RET. NOT FOUND

JUN 14 1978 ALIAS SUMMONS ISSUED

MAY 4 - 1978 ALIAS SUMMONS ISSUED 4/7/78

JUDGE	ORDERS ENTERED	DATE	JUDGE	MEMORANDA OF POSTPONEMENTS
	MOTION FOR DEFAULT Mo to dismiss per draft mot as to La Salle Nat Bank as trustee Only	SEP 28 1978		CITATION SUMMONS ISSUED 10 m prev order filed
MAY 9 1978	MEYER H. GOLDSTEIN B. Coleman Def'd per Servi			Set for answer call room 1305 11:00 A. M. Date MAY 18 1978
MAY 9 1978	MEYER H. GOLDSTEIN Damages assessed by court on affidavit of claim Ninety two hundred eighty 92/100 dollars $9280.94 on default and assessment damages versus B. Coleman Def. Only Ninety two hundred eighty dollars $9280.94 & Costs	MAY 9 1978		Affidavit as to Military Service Filed DEFAULTED WANT OF ANSWER
MAY 18 1978	MEYER H. GOLDSTEIN Order of Court time to file answer 20 days. Wm Rubin & Randolph Mortgage Corporation	5-18-78		SET FOR TRIAL CALL 9:30 A.M. ROOM 1104 DATE 8-17-78
JUN 1 1978	Michael F. Zlatnik Lv field Amd app 28 days Am Pet	JUL 11 1978		SUM. FLD. RET. SERV. 6/19/78
JUN 12 1978	MEYER H. GOLDSTEIN MOTION PLAINTIFF Samuel Jones APPOINTED SPECIAL DEPUTY TO MAKE SERVICE OF PROCESS	JUN 12 1978	MEYER H. GOLDSTEIN	Motion Def't
		6-26-78		Motion to strike and dismiss

DATE	JUDGE	ORDERS ENTERED	DATE	PAPERS FILED AND WRITS ISSUED
JUL 13 1978		Deft Brian Flusk dfltd pers serv	11/3/78	10/3/78
AUG 17 1978	Michael F. Zlatnik	XP Trial by court finding issue versus defendant. Damages fixed at Ninety Two Hundred Eighty Dollars ($9280.00) 94 Judgment on finding versus defendant in the sum of $9280.00 and costs.		W. N. Rufus + B. Flusk. B. Flusk + B. Coleman Inc.
MYRON GOMBERG	NOV 08 1978	J. Levy & B. Coleman Corp Agt		M. Rogers.
		Rule on defendant to show cause at Room 1403, 9:30 A.M. on JAN 19 1979 for failure to attend as witness before Court		
DEC 6 1978	Schaber	Exc 1-11-79 21 day supby		
JAN 19 1979	JUDGE LEONARD R. GRAZIANI	4-10-79 Stet		

BE IT REMEMBERED, that afterwards, to-wit: on the 25th day of APRIL A.D. 1978 the following among other proceedings were had and entered of record in said Court which proceedings were and are in words and figures following to-wit:

PRESENT HONORABLE MEYER H. GOLDSTEIN
One of the Judges of the Court
BERNARD CAREY, State's Attorney
RICHARD J. ELROD, Sheriff
MORGAN M. FINLEY, Clerk

PEOPLES GAS LIGHT & COKE CO., a public utility corp.,

vs.

LA SALLE NATIONAL BANK OF CHICAGO, as Trustee u/t 21113, RANDOLPH MORTGAGE CORPORATION, WILLIAM H. RUBIN, BRIAN FLISK, BARRY FLISK, B. COLEMAN CORP. a corp.

No. 78M1-16346

TORT

It is ordered by the Court that the motion to dismiss be and same is hereby Sustained as to LaSalle National Bank ONLY.

MORGAN M. FINLEY
Clerk of the Circuit Court of
Cook County

IN THE CIRCUIT COURT OF COOK COUNTY
ILLINOIS, MUNICIPAL DEPARTMENT,
FIRST DISTRICT

PEOPLES GAS LIGHT & COKE COMPANY, a public utility corporation,

Plaintiff

vs.

LA SALLE NATIONAL BANK OF CHICAGO, as Trustee under Trust No. 21113, et al,

Defendants

NO. 78 M1 16346

(Filed In the Circuit Court of Cook County, Ill. Municipal Department, First District April 25, 1979 — *Morgan M. Finley* Clerk of Court)

MOTION TO PRODUCE

You are hereby requested to produce at the hearing tomorrow before the HONORABLE MICHAEL ZLATNIK a list of the names and addresses of the persons that testified before the HONORABLE MICHAEL ZLATNIK on the 17th day of August, 1978, that Brian Flisk, Randolph Mortgage Corporation and William Henning Rubin had an interest in the real estate.

YOU are further requested to produce all documents offered in evidence with reference thereto.

YOU ARE FURTHER REQUESTED To Produce any transcript of a court reporter that took the testimony on the 17th day of August, 1978 at said hearing.

RANDOLPH MORTGAGE CORPORATION
et al,

By *William Henning Rubin*
William Henning Rubin
Their attorney

Dated at Chicago, Illinois
This 24th of April, 1979

WILLIAM HENNING RUBIN
188 W. Randolph—714
Chicago, Illinois 60602
263-6780

PROOF OF SERVICE

WILLIAM HENNING RUBIN certifies that he served a copy of the aforementioned Motion to Produce on Wexler & Wexler this 24th day of April, 1979 by placing same in the office at the address detailed hereinabove, to Wexler & Wexler at 134 N. LaSalle, Chicago, Illinois.

/s/ *William Henning Rubin*

IN THE CIRCUIT COURT OF COOK COUNTY,
ILLINOIS, MUNICIPAL DEPARTMENT,
FIRST DISTRICT

PEOPLES GAS LIGHT & COKE COMPANY,
Plaintiff

vs.

LA SALLE NATIONAL BANK as Trustee under Trust No. 21113, et al,
Defendants

NO. 78 M1 16346

STIPULATION

IT IS HEREBY STIPULATED by and between the parties hereto that the judgment erroneously entered against LaSalle National Bank of Chicago as trustee under Trust No. 21113 on the half-sheet of the Court Clerk on July 13, 1978, be vacated, in view of the fact that the Bank was previously discharged by draft order; and

THAT SAID JUDGMENT be vacated instanter.

/s/ (*Illegible*)
Atty for Plaintiff

/s/ *William Henning Rubin*
Atty for Defendant Randloph
Mortgage Corporation

Dated at Chicago, Illinois
This 26th day of April 1979

BE IT REMEMBERED, that afterwards, to-wit: on the 26th day of APRIL, A.D. 1979 the following among other proceedings were had and entered of record in said Court which proceedings were and are in words and figures following to-wit:

PRESENT HONORABLE MICHAEL F. ZLATNIK
One of the Judges of the Court

BERNARD CAREY, State's Attorney
RICHARD J. ELROD, Sheriff
MORGAN M. FINLEY, Clerk

PEOPLES GAS LIGHT & COKE CO.,
a public utility corp.

vs.

LA SALLE NATIONAL BANK OF CHICAGO, as Trustee u/t 21113, RANDOLPH MORTGAGE CORPORATION, WILLIAM H. RUBIN, BRIAN FLISK, BARRY FLISK, B. COLEMAN CORP., a corp.,

---

No. 78M1-16346
TORT

By Stipulation between the parties, it is ordered by the Court that the Judgment entered herein, JULY 13, 1978 against LA SALLE NATIONAL BANK OF CHICAGO in the amount of NINE THOUSAND TWO HUNDRED EIGHTY AND 94/100 DOLLARS ($9,280.94) be and the same is hereby vacated, set aside and for naught esteemed.

MORGAN F. FINLEY,

Clerk of the Circuit Court of Cook County

IN THE CIRCUIT COURT OF COOK COUNTY,
MUNICIPAL DEPARTMENT FIRST DISTRICT

PEOPLES GAS LIGHT & COKE COMPANY,

Plaintiff

v.

LA SALLE NATIONAL BANK, ET.AL.,

Defendants

NO. 78 M1 16346

FILED
In the Circuit Court of Cook County, Ill.
Municipal Department, First District
Apr 25 1979

/s/ *Morgan M. Finley*
Clerk of Court

ORDER

Entered in Special Order Book No. 169 Page No. 21.

THIS CAUSE COMING ON TO BE HEARD before the Honorable Michael Zlatnik, on the motion of the defendants, Randolph Mortgage Company, William Rubin, Brian Flisk and Barry Flisk, to vacate the judgment heretofore entered by this Court on August 17, 1978 against same; the court being advised of the premises and having heard the arguments of counsel for the respective parties, finds:

(a) that the Court has no record, notes and/or minute book reflecting the names and addresses of the witnesses that testified;

(b) that Judge Lehman Krause entered an order on March 23, 1979 denying defendants previous motion and petition vacate;

(c) that this Court has no jurisdiction to hear this motion to vacate

It is hereby ordered that no order will be entered on this motion.

4-25, 1979

ENTER: /s/ *Michael Zlatnik*
Judge

Wexler, Wexler and Heller, Ltd.
Attorneys at Law
134 North La Salle Street
Chicago, Illinois 60602

(312) 236-3644 (312) 726-3327

IN THE APPELLATE COURT, STATE OF ILLINOIS
FIRST DISTRICT

PEOPLES GAS LIGHT & COKE CO.,
Plaintiff-Appellee,

v.

LA SALLE NATIONAL BANK OF CHICAGO, as Trustee Under Trust No. 21113, et.al.,
Defendants-Appellants

NO. 79-857

ORDER

THIS CAUSE COMING ON TO BE HEARD on the motion of the Plaintiff-Appellee to strike and dismiss the Appeal heretofore filed in the above-captioned matter due to lack of jurisdiction; this Court being advised of the premises, having read the petitions of the respective parties and having reviewed the Short Record On Appeal:

IT IS HEREBY ORDERED that the motion of the Plaintiff-Appellee is granted.

Dated: July 12, 1979

Justice /s/ *Mel R. Jiganti*
Justice /s/ *David Linn*
Justice /s/ *Philip Romiti*

Wexler, Wexler & Heller, Ltd.
Attorney for Plaintiff-Appellee
134 North La Salle Street
Chicago, Illinois
RA-6-3327

STATE OF ILLINOIS
OFFICE OF
CLERK OF THE SUPREME COURT
Springfield

January 16, 1980

Mr. William Henning Rubin
Attorney at Law
188 W. Randolph Street
Suite 714
Chicago, IL 60602

In re: Peoples Gas Light & Coke Company,
respondent, vs. LaSalle National Bank,
as Trustee, etc., et al., petitioners—
No. 52347

Dear Mr. Rubin:

The Supreme Court of the State of Illinois denied the petition for leave to appeal on October 1, 1979, and denied the motion by petitioners for reconsideration of the order denying petition for leave to appeal on November 13, 1979, concerning the above entitled cause.

Very truly yours,

/s/ Clell L. Woods
Clerk of the Supreme Court

CLW:cr